

other necessary information is obtained. The CCC may require such other verification as it deems appropriate to assure that the program goals are met.

(f) To receive the payment, the eligible producer must submit a request for payment on an application form as prescribed by CCC or FSA. The application may be obtained from the county FSA office, or from the USDA or FSA web site in the Internet. The form must be submitted to the county by the close of business on or before March 31 of the applicable crop year.

(g) The producer will be ineligible for payments under this subpart if any discrepancies between the reported acreage on the program form and other reports of acreage by the producer are not resolved by a date set by the CCC.

(h) Unless otherwise authorized by the Deputy Administrator, all payment shall be made no later than September 28, 2001.

[66 FR 13404, Mar. 6, 2001. Redesignated and amended at 67 FR 63511, 63524, Oct. 11, 2002]

#### **§ 1421.306 Misrepresentation and scheme or device.**

(a) A producer shall be ineligible to receive payments under this subpart if it is determined by DAFP, the State committee, or the county committee to have:

(1) Adopted any scheme or device which tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination.

(b) Any funds disbursed pursuant to this subpart to a producer engaged in a misrepresentation, scheme, or device, or to any other person as a result of the producer's actions, shall be refunded with interest together with such other sums as may become due. Any producer engaged in acts prohibited by this section and any person receiving payment under this subpart, as a result of such acts, shall be jointly and severally liable for any refund due under this section and for related charges. The remedies provided in this subpart shall be in addition to other civil, criminal, or administrative remedies which may apply.

#### **§ 1421.307 Refunds; joint and several liability.**

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under this application, or this subpart, and if any refund of a payment to CCC shall become due for that or other reason in connection with the application, or this subpart, all payments made under this subpart to any producer shall be refunded to CCC together with interest as determined in accordance with paragraph (c) of this section and late-payments charges as provided for in part 1402 of this chapter.

(b) All persons listed on an application shall be jointly and severally liable for any refund due in connection with that application and for any related charges which may be determined to be due for any reason.

(c) Interest shall be applicable to refunds required of the producer. Such interest shall be charged at the rate of interest which the United States Treasury charges CCC for funds, as of the date CCC made such benefits available. Such interest shall accrue from the date such benefits were made available to the date of repayment but the interest rate shall increase to reflect any increase in the rate charged to CCC by Treasury for any percent of time for which the interest assessment is collected. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the producer.

(d) Late payment interest shall be assessed on refunds in accordance with the provisions of, and subject to the rates in 7 CFR part 1403.

(e) Producers must refund to CCC any excess payments made by CCC with respect to any application in which they have an interest. Such refund shall be subject to interest at the same rate that applies to other refunds.

#### **Subpart E—Designated Marketing Associations for Peanuts**

SOURCE: 70 FR 33799, June 10, 2005, unless otherwise noted.

## § 1421.400

## 7 CFR Ch. XIV (1-1-07 Edition)

### § 1421.400 Applicability and abbreviations.

(a) This subpart sets forth the terms and conditions under which an entity which is a marketing association of peanut producers, or a subsidiary of such an entity, may qualify to become an eligible “designated marketing association” or “DMA” qualified to process peanut marketing assistance loans and peanut loan deficiency payments for peanut producers. This subpart only applies with respect to peanut loans and peanut loan deficiency payments. This subpart also specifies when storage credit will begin with respect to peanuts under loans handled by designated marketing associations.

(b) In addition to other abbreviations that may be used, the following abbreviations apply to this subpart:

(1) *CCC* means the Commodity Credit Corporation.

(2) *CMA* means cooperative marketing associations which are the subject of regulations in part 1425 of this chapter.

(3) *DMA* means designated marketing associations.

(4) *EWR* means electronic warehouse receipts.

(5) *FSA* means the Farm Service Agency of the U.S. Department of Agriculture.

(6) *LDP* means loan deficiency payments as provided for in this part.

(7) *MAL* means marketing assistance loans as provided in this part.

### § 1421.401 Definitions.

The definitions set forth in this section shall apply for purposes of program administration under this subpart. The terms defined in this part, in part 718 of this title, and in parts 1425 and 1427 of this chapter shall also be applicable, except where those definitions conflict with the definitions in this section.

*Administrative County Office* is the FSA County Office where a producer’s FSA records are maintained.

*Control or Recording FSA County Office* is the FSA County Office that controls subsidiary files for producers designated as multi-county producers.

*Current net worth ratio* means current assets minus current liabilities, divided by current liabilities, based on

the financial statement provided in connection with a DMA application or a recertification for DMA status.

*DMA Service County Office* is an FSA County Office designated by CCC to accept, process, and disburse bundled peanut MAL’s and LDP’s to a DMA. In the absence of a centralized MAL and LDP processing system for peanuts, a service county FSA office is necessary for entering MAL’s and LDP’s made by DMA’s into CCC accounting systems.

*Drawdown account* is an account titled to the DMA at a financial institution and funded at the discretion of CCC for the purpose of allowing the DMA to advance funds to producers who have applied for MAL’s and LDP’s before a subsequent MAL or LDP is made to the DMA by an assigned FSA county office.

*Electronic warehouse receipt or EWR* means a receipt electronically filed in a central filing system by an approved provider as provided in an executed, “Farm Service Agency Provider Agreement to Electronically File and Maintain Warehouse Receipts.”

*Security* means a certified or cashier’s check payable to CCC, an irrevocable commercial letter of credit in a form acceptable to CCC, a performance or surety bond conditioned on the DMA fully discharging all of its obligations under this part, or other form of security as CCC may deem appropriate.

### § 1421.402 DMA responsibilities.

(a) DMA’s are eligible to process the marketing loans and loan deficiency payments provided for in this part only for peanut producers and only if the DMA and the producers and peanuts meet all eligibility criteria set out in this part, including, but not limited to, the DMA eligibility provisions of this subpart. In carrying out those functions, DMA’s must:

(1) Prepare and execute the appropriate CCC peanut MAL and LDP application documents;

(2) Determine whether producers and the commodity are eligible for MAL’s and LDP’s, including whether the otherwise eligible peanuts are free and clear of all liens which DMA’s shall determine by performing lien searches at DMA’s expense;